IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 385 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL
and
Hon'ble MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MOHANLAL LALLUBHAI SINGAPURI

Versus

STATE OF GUJARAT

Appearance:
MRS KETTY A MEHTA for Petitioners No. 1-3
RULE SERVED for Respondent No. 1
MR RC KODEKAR for Respondent No. 2
..... for Respondent No. 3

CORAM : MR.JUSTICE B.C.PATEL
and
MR.JUSTICE SHARAD D.DAVE

Date of decision: 18/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE B.C.PATEL)

#. Against the notification published under Section 4 of the Land Acquisition Act, 1894 in the Government Gazette and subsequently in the Gujarat Mitra dated 21.3.89, copy of which is produced at Annexure : A, for acquiring the lands, the present petition is preferred.

#. Along with notification published under Section 4 of the Act for the lands in question which are referred to in schedule to Annexure : A, it appears that there was another notification published under Section 4 of the Act for acquisition of other survey numbers nearby the lands in the instant case, for the purpose of Indian Oil Corporation for construction of residential houses.

#. It is not necessary to discuss the matter in detail as the Division Bench, hearing the matter earlier while issuing notice on 23.1.90, by an interim relief restrained the respondents from taking possession from the petitioners and thus, the lands of survey nos. 42/2/A 42/2/B and 42/2/C of village Magdalla, Taluka Choryasi, District - Surat covered by the notification issued under Section 6 of the Act, copy of which is produced at Annexure : C to the petition, remained in possession of the petitioners. At no point of time, the Division Bench hearing the matter on earlier occasion restrained the Special Land Acquisition Officer from making an award.

#. That apart, in the instant case for construction of residential houses for staff of the Indian Oil Corporation, another notification was published which was the subject matter of Special Civil Application No. 4011/97, wherein a letter dated 10.7.98 was produced by the Indian Oil Corporation disclosing that the said lands could not be put to use for the purpose for which it came to be acquired. In the letter, it was suggested that it was not possible to carry out construction within 40 meters of the centre of the road. The Collector, Surat was therefore informed stating therein that the possession of the lands which were the subject matter of Special Civil Application No. 4011/97 be handed over to the original owners on certain conditions referred to in that letter. Mr. G.N. Shah, learned counsel appearing for the Indian Oil Corporation stated that in view of the aforesaid letter, the Indian Oil Corporation appears to be of the view that the lands in question are not required. In any view of the matter, this petition has become infructuous and therefore, the petition stands disposed of. Ad-interim relief stands vacated with a

liberty to move in case of difficulty. In the absence of award within stipulated period, unless maker of the award is restrained by judicial process, the notification under Section 4 of the Act would lapse. Copy of the letter of the Indian Oil Corporation be taken on record. Rule is discharged accordingly.

[B.C. PATEL, J.] [SHARAD D. DAVE, J.]

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